



CORPORATE POLICY STATEMENT NO. 91

BURIAL OF ABORIGINAL PEOPLE ON CALM ACT LAND

January 2016

1. OBJECTIVE

To provide a means for relatives of Aboriginal persons to bury their deceased on lands and waters to which the *Conservation and Land Management Act 1984* (CALM Act) applies (CALM Act land) in order to fulfil cultural obligations consistent with the conservation of the area's natural and cultural heritage.

2. SCOPE

This policy will apply to all CALM Act land. It does not apply to lands and waters managed by the department under the *Swan and Canning Rivers Management Act 2006*.

Sanctioning burials on CALM Act land will permit Aboriginal people to honour their deceased by laying them to rest in a culturally appropriate manner outside of a State cemetery, but consistent with the *Cemeteries Act 1986*.

3. CONTEXT

The Department of Parks and Wildlife (the department) is responsible for the management of a wide range of lands on behalf of the State and recognises there is a need to accommodate requests for culturally appropriate burials for Aboriginal people on these lands.

4. LEGISLATION

The *Cemeteries Act 1986* authorises burials in Western Australia and is administered by the Department of Local Government and Communities. This Act stipulates that a dead body must be buried in a cemetery unless the Minister for Local Government or his/her delegate consents to a burial on land that is not a cemetery. The Minister has the discretion to consent to a burial in a place that is not a cemetery if (1) the burial is done in a place that is visibly set apart and (2) the burial place is distinguishable as a burial place.

The CALM Act and *Conservation and Land Management Regulations 2002* (CALM Regulations) permit disturbance of soil (regulation 35A) subject to lawful authority being granted. A person may enter or remain in a cave with lawful authority (regulation 49), however must not light a fire in a cave (regulation 29(2)).

5. POLICY

- 5.1 Requests for burial of Aboriginal people on CALM Act land will be treated with dignity and compassion.
- 5.2 The department will enter into discussions with Aboriginal people in relation to requests for burials on CALM Act land and will respect the values and rights of Aboriginal people when culturally sensitive information or activities are disclosed.
- 5.3 Requests for burial of Aboriginal people will be assessed on a case-by-case basis. Written consent (including lawful authority) will be given for an Aboriginal burial for cultural purposes on CALM Act land where:
 - 5.3.1 the deceased was an Aboriginal person who had a traditional or longstanding affiliation with the area in which the body is to be buried;
 - 5.3.2 written approval has been given for the burial from the next-of-kin and the registered native title holders (Prescribed Body Corporate) to ensure cultural laws and practices are observed;
 - 5.3.3 the burial place is one of cultural or spiritual significance and is visibly set apart for, and is distinguishable as, a burial place; and
 - 5.3.4 the burial can take place with minimal disturbance to the land in accordance with conservation values and public safety provisions.
- 5.4 Approval for the burial is required from the Minister for Local Government or his/her delegate, and should be obtained by the person requesting the burial although the department may provide assistance in this process.
- 5.5 The department's aim is to strengthen its relationship and capacity to work with Aboriginal people. The department shall, wherever possible, and in accordance with the CALM Regulations, assist and facilitate the needs and aspirations of Aboriginal people for burials, consistent with customary purposes on CALM Act land.

6. STANDARDS

Parks and Wildlife will ensure the processes and procedures outlined in the CALM Act regarding the establishment and management of lands to which the Act applies are followed.

7. POLICY IMPLEMENTATION STRATEGIES

- 7.1 Staff will advise that as a general rule burials are not permitted on CALM Act land.
- 7.2 Burials are not to be conducted in public view or where visitors are involved in recreation activities, however if a burial is requested where

recreational pursuits are regularly undertaken, alternative locations for the burial may be considered.

- 7.3 Aboriginal cultural obligations may require the location of a burial site to be confidential, taking place in a remote area, therefore this information should not be released to the public.
- 7.4 Each region and district office will have a record of all burial requests, the name of the family members requesting the burial and the approximate location of the proposed burial. This information will be provided to the department's Land Unit once a burial is completed, so a central register can be compiled to include details of burials from all regional offices.
- 7.5 Conditions may be attached to an approval if necessary in order to take into account other users of the land. These conditions may also address issues such as transportation of the body (with possible notification to local police) and depth of the burial.
- 7.6 Issues relating to burials on jointly managed lands should be discussed by the joint management body.
- 7.7 Caves or rock shelters can be considered as burial places for Aboriginal people, subject to compliance with the CALM Regulations.
- 7.8 Smoking ceremonies are widely conducted and are considered appropriate under Corporate Guideline No. 22 - Aboriginal Customary Activities.

8. CUSTODIAN

Director Parks and Visitor Services.

9. PUBLICATION

This policy will be made available on the department's internet and intranet.

10. KEY WORDS

Aboriginal; burial; traditional burial practice; Aboriginal customary activities.

11. REVIEW

This policy will be reviewed no later than January 2019.

12. DIRECTOR GENERAL APPROVAL

Approved by



Jim Sharp
DIRECTOR GENERAL

Effective date: 15 February 2016